IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cri. Appeal No. 561 of 2000

Date of Decision: 11th September, 2007

State of Himachal Pradesh	Appellant
Versus	
Jamit Singh and others	Accused/Respondents

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]?

For the appellant:	Mr. Ashok Chaudhary, Addl. Advocate General.
For the respondent:	Mr. N.K.Thakur, Advocate.

Sanjay Karol, J. (Oral)

The present appeal arises out of the judgment dated 23rd December, 199 passed by Judicial Magistrate, IInd Class, Court No.II, Amb, district Una, in Case No. 107-1/98, titled as State v. Jamit Singh and others, acquitting the accused persons of an offence under Sections 325, 323, 506 read with Section 34 of the Indian Penal Code.

Brief facts of the case are as under:-

On 7.9.1998 at about 9.20 p.m. Smt. Biasa Devi (PW-1) filed a complaint with the Police Station Gagret, based on which FIR No. 99/98 dated 9.9.1998 was registered. The investigation was carried out and the complainant was got medically examined and her MLC (Ext.PW8/A) and x-ray report (Ext.PW-5/A) were taken into possession and weapon of offence

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Whether the reporters of Local Papers are allowed to see the Judgment?

(Ext.P-1) was also taken into possession vide Ext.PW-4/A. After recording the statements of witnesses the challan was presented before the Court.

After complying with the provisions of Section 207, Cr.P.C., accused persons were charged for offences under Sections 325, 323, 506 read with Section 34, IPC to which they did not plead guilty and consequently the matter was put to trial.

The prosecution examined 7 witnesses and thereafter the statements of accused persons under Section 313, Cr.P.C. were recorded. The accused examined two witnesses in support of their defence.

After considering the material on record, the Court below found that statements of the witnesses were full of contradictions and could not be relied upon and as such there was no cogent and sufficient evidence on record to prove the guilt of the accused. Accordingly, the trial Court acquitted all the accused.

Learned counsel for the appellant has fairly stated that out of 7 witnesses produced by the prosecution, testimony of only Biasa Devi (PW-1), Rita Devi (PW-2) and Rohit Kumar (PW-3) can be relied upon for deciding the present appeal.

The case of the prosecution is that on 7.9.1998 all the accused persons, who are close relatives of the complainant entered into her house and beat her with Jhabal (long iron rod) (Ext.P-1) and hurled abuses in the presence of her husband, Rita Devi (PW-2) daughter and Rohit Kumar (PW-3) son. The complainant was injured and medically examined.

It has come on record that husband of the complainant is real brother of accused No. 1 and 2 and accused 3 and 4 are sisters-in-law of the complainant.

It has also come on record that in relation to the very same incident Jamit Singh, accused No.1, had also lodged report with the police

being rapat No.24 dated 7.9.1998 for having sustained injuries at the hands of the husband of the complainant. Based on the said complaint Jamit Singh was also medically examined. This fact has not been brought on record by the prosecution but has come on record through the defence evidence. PW-3 who is son of the complainant has turned hostile and has not supported the prosecution case at all. Statement of PW-2 is also hearsay and not much credence can be given to her statement. She has stated that her mother had received injuries as told to her by her father.

In so far as the deposition of PW-1 is concerned, she has admitted that the incident took place in presence of her son Rohit Kumar (PW-3) and her daughter Rita Devi (PW-2). She has further stated that on the date of incident, her husband was also present at the site and the alleged weapon of offence Jhabal (Ext.P1) belonged to him. Her version is not corroborated by any independent witnesses. Not much credence can be given to her statement. The prosecution has deliberately concealed the factum of the registration of the counter case by the accused persons against her husband. The case of the prosecution is not proved but there is suspicion with regard to its truthfulness also. Why the husband of the complainant was not associated by the police has not been explained. Further more Sant Ram (Pw-4) who is the witness to recovery memo (Ext.PW-4/A) has also not supported the case of the prosecution with regard to recovery of weapon of offence. From the statement of PW-1 it has come on record that there are houses of other persons in the neighbourhood and none of the persons living in the neighbourhood has been associated by the police in the investigation. In my view, the evidence led by the prosecution is full of doubts and, therefore, not much credence can be given on the statement of PW-1 alone. The case of the prosecution has not been proved beyond all reasonable doubt. The findings returned by the trial Court are

based upon correct appreciation of material on record and supported by reasons.

For the reasons stated above, I find no reason to interfere with the judgment of acquittal. Consequently, the appeal is dismissed. The bail bonds stand discharged.

11th September, 2007
(C)

(Sanjay Karol)
Judge.